

**BOARDWALK II
FOURTEEN-LOT SUBDIVISION WITH ONE VARIANCE REQUEST**

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER: Benjamin H. Howell *BH*

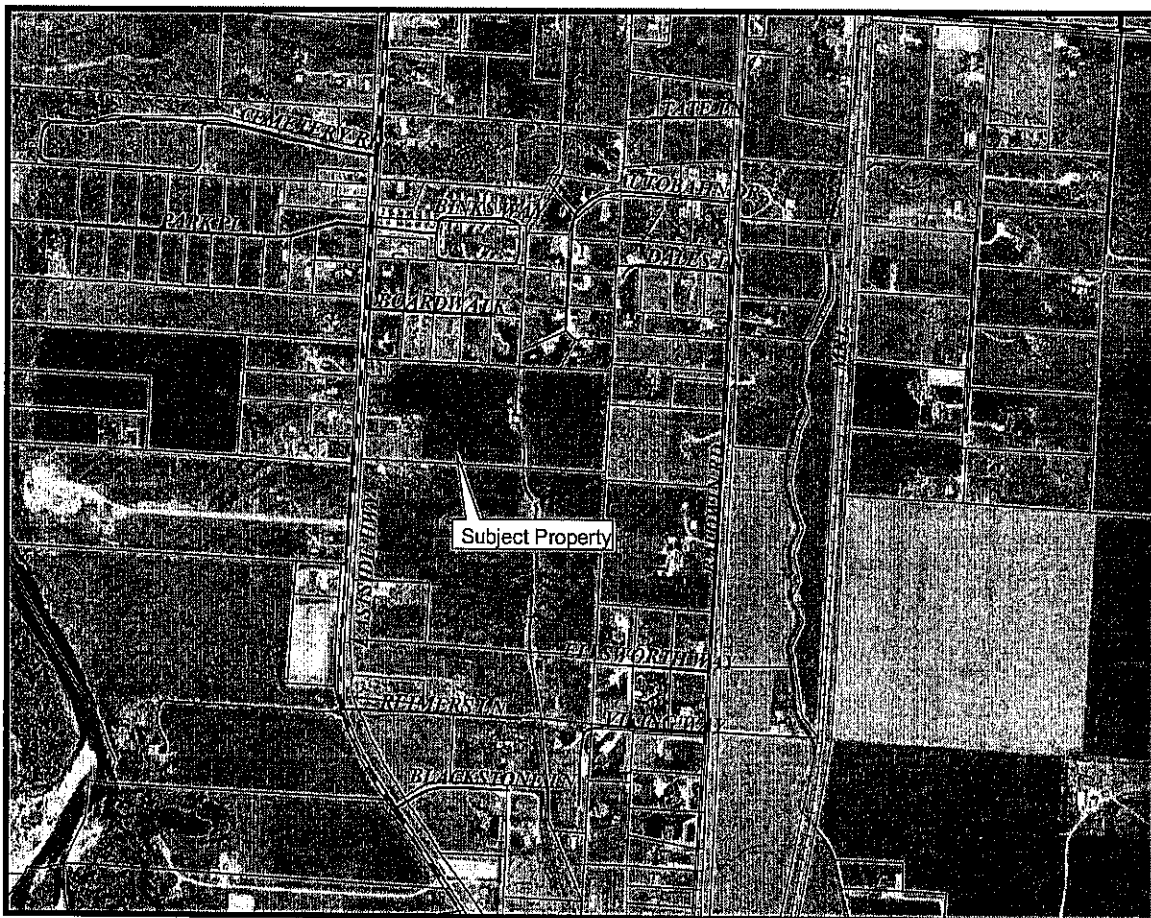
**REVIEWED/
APPROVED BY:** Renee Van Hoven *RV*

**PUBLIC HEARINGS/
MEETINGS:**

RCPB Plat Evaluation:	December 21, 2005
RCPB Public Hearing:	January 4, 2006
Deadline for PB recommendation to BCC:	March 1, 2006
BCC Public Meeting:	9:00 a.m. February 23, 2006
(Unless PB delays decision)	
Deadline for BCC action (60 working days):	March 21, 2006

REPRESENTATIVE: Applebury Survey, 961-3267

LOCATION OF REQUEST: The property is located south of Stevensville off Eastside Highway.
(Map 1)



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

**APPLICATION
INFORMATION:**

The subdivision and variance applications were determined sufficient on November 30, 2005. Agencies were notified of the subdivision and variance request and comments are included in the application.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on Tuesday, December 6, 2005. Notice of the project was posted on the property and property owners adjacent to the property were notified by certified mail postmarked December 6, 2005. Agencies were notified of the subdivision and variance requests. Comments received from agencies not included in the application packet are Exhibits A-1 through A-6 of the staff report. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Existing house and agriculture
North	Residential
South	Residential/Agriculture
East	Residential
West	Residential

RAVALLI COUNTY PLANNING BOARD

JANUARY 4, 2006

**BOARDWALK II
FOURTEEN-LOT SUBDIVISION AND WITH ONE VARIANCE REQUEST**

RECOMMENDED MOTIONS

1. That the variance request from Section 5-4-5(a) of the Ravalli County Subdivision Regulations, to allow for a cul-de-sac on Red Willow Drive be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.
2. That the Boardwalk II Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Notification of Irrigation Ditch/Pipeline Easements. Within this subdivision there are irrigation easements. All downstream water right holders have the right to maintain and repair their ditches/pipelines and diversion structures whenever necessary to keep them in good condition. The filed subdivision plat shows irrigation ditches and easements on the property. The downstream water rights holders must approve any relocation or alteration (i.e. installation of a culvert) of an irrigation ditch or pipeline. Any act which damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easement to maintain the ditch or pipeline. *(Effects on Agricultural Water User Facilities)*

Lots within this subdivision do not currently have the right to take irrigation water out of the Union Ditch located within the subdivision. Taking water without a water right for irrigation purposes is illegal. *(Effects on Agricultural Water User Facilities)*

Limitation of Access onto a County Road. A "no ingress/egress" restriction is located along the Eastside Highway frontage of the subdivision, excepting the approach to the internal road that is approved by the Montana Department of Transportation (MDT), which precludes vehicular access onto this State-maintained road. This limitation of access may be lifted or amended with approval of the County. *(Effects on Local Services)*

Notification of Road Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain the internal subdivision road and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement for the internal road was filed with this subdivision and outlines what parties are responsible for road maintenance and under what conditions. *(Effects on Local Services)*

Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Burnt Fork Dam. The entire subdivision may be located within the dam inundation area for the Burnt Fork Dam. For more information please contact the Sunset Irrigation District (3221 Miller Hill Rd, Stevensville, MT 59870). *(Effects on Public Health and Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See letter from FWP in application packet for the required provisions) *(Effects on Wildlife and Wildlife Habitat and Public Health and Safety)*

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community waste water treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. Lot owners shall post County-issued addresses at the intersection of the driveway leading to the primary residence and the accessing road as soon as construction on the residence begins. *(Effects on Local Services and Public Health and Safety)*

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Maintenance of Fencing from the Union Ditch. The owners of Lots 4, 5, 9, and 10 shall be responsible for maintaining the safety fencing located along the boundary of the lots. Each lot owner shall be responsible for maintaining the portion of the fence on their lot to meet the specifications in Section 5-6-2(b) of the Ravalli County Subdivision Regulations. *(Effects on Public Health and Safety)*

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants listed above, that are required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The applicants shall build the internal subdivision road to meet major local road standards, except that a cul-de-sac will be allowed prior to final plat approval. *(Effects on Local Services)*
4. A public road and utility easement shall be shown on the final plat along the boundary between Lots 7 and 8 from the end of Red Willow Drive's cul-de-sac to the eastern property line of Boardwalk II. The easement shall be labeled as a public road and utility easement on the final plat. *(Effects on Local Services, Variance)*
5. Red Willow Drive shall be labeled as a privately-maintained road within a public road and utility easement on the final plat. *(Effects on Local Services)*
6. A stop sign shall be installed at the intersection of Red Willow Drive and Eastside Highway, reviewed by the Road and Bridge Department, and approved by the Planning Department prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
7. The applicants shall provide an approved MDT Approach Permit for the internal road accessing off Eastside Highway prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
8. The final plat shall show a no ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approach for the internal road approved by MDT. *(Effects on Local Services)*
9. The applicants shall provide for an additional five feet of easement along the Eastside Highway frontage of the subdivision on the final plat. *(Effects on Local Services)*
10. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
11. Existing irrigation easement shall be shown on the final plat as shown on the preliminary plat. *(Effects on Agricultural Water User Facilities)*
12. The applicants shall provide evidence that an amount per lot (to be decided by the Planning Board) has been contributed to the Stevensville School District prior to final plan approval. *(Effects on Local Services)*
13. Prior to final plat approval, the applicant shall install a water supply consistent with the Uniform Fire Code, subject to the review and approval of the Stevensville Fire District, or contribute \$500 per lot to the Stevensville Fire District and provide evidence of that contribution with the final plat application. *(Effects on Local Services & Public Health and Safety)*

14. The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Public Health and Safety)*
15. The applicants shall provide a letter of zoning compliance from the Town of Stevensville indicating that the final plat and any required documents are in compliance with zoning. *(Consistency with Zoning)*
16. To meet the requirement that each deed will contain a waiver of the right to protest future annexation to the Town of Stevensville, a document filed with the final plat shall state that each deed for each lot within this subdivision will contain the aforementioned waiver. A document indicating consent of the property owners, and any successors in interest of the subject property, to annexation shall also be filed with the Clerk and Recorder's Office. The applicant shall provide written evidence from the Town of Stevensville that they approve of the language included in these documents. *(Effects on Local Services and Consistency with Zoning)*
17. To meet the requirement that each deed will contain a waiver of the right to protest future annexation to the Town of Stevensville, a document filed with the final plat shall state that each deed will contain a waiver of the right to protest an SID to bring all infrastructure up to the current town standards at the time of annexation. A separate document shall also be filed with the City indicating the property owners, and any successors in interest, consent to future improvements. The applicant shall provide written evidence from the Town of Stevensville that they approve of the language included in these documents. *(Effects on Local Services and Consistency with Zoning)*

INTRODUCTION

The Boardwalk II Major Subdivision is a fourteen-lot subdivision located on approximately 16.60 acres, just south of the Town of Stevensville. The property has one house, which is located on proposed Lot 14 and will remain on the property. The proposed subdivision is located within the extraterritorial zoning area for the Town of Stevensville, about ½ mile south of Stevensville. The Union Ditch traverses through the property, and the applicants are proposing to fence the ditch to County Standards. The subdivision is close to existing services and residential development. It is likely this subdivision will be annexed to the Town of Stevensville in the future, and with public water and sewer, this subdivision could accommodate a higher density.

In conjunction with the subdivision proposal, the applicant is requesting a variance from Section 5-4-5(a) of the Ravalli County Subdivision Regulations, to allow for a cul-de-sac on Red Willow Drive, a major local road.

Staff is recommending approval of the variance and conditional approval of the subdivision.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The property is not currently being used for agriculture.
2. This property is located approximately ½ mile south of the Town of Stevensville on Eastside Highway. Locating higher density development close to towns and existing services decreases the demand for development in outlying areas that will have increased impacts on agriculture. With public water or sewer systems, this property could be developed at a higher density.
3. There are no Prime Farmland Soils or Farmland of Statewide Importance associated with this property.
4. The property is located in an area where there is a mix of agricultural and residential uses. To mitigate impacts on nearby agricultural practices, a notification of agricultural operations shall be filed with the final plat and the covenants shall include a provision requiring owners to control domestic pets. (Conditions 1 & 2)

Conclusions of Law:

1. A more densely developed subdivision would better protect agricultural land elsewhere by providing high density housing in close proximity to services.
2. With the mitigating condition, impacts of this subdivision on surrounding agricultural practices should be minimized.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. According to the application, the property has no water rights.
2. The Union Ditch traverses Lots 4, 5, 9, and 10 of the property.
3. There is an existing 40-foot wide easement associated with the ditch shown on the preliminary plat. To mitigate impacts on agriculture water user facilities, the applicant shall show the irrigation easement on the final plat. (Condition 11)
4. To notify future property owners and mitigate potential impacts on agricultural water user facilities, a notification of the irrigation ditches and easements shall be filed with the final plat. Notification shall also be included that states that owners of the lots do not have the right to take water from the Union Ditch. (Condition 1)

Conclusion of Law:

Impacts to agricultural water user facilities will be minimized through the recommended mitigating conditions.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. Eastside Highway is a State-maintained highway that provides access to the subdivision. The right-of-way for Eastside Highway along the subdivision frontage is 50-feet wide. To mitigate impacts on local services, the applicant shall provide for an additional 5 feet of easement along the Eastside Highway frontage. (Condition 9)
2. The property is within the Town of Stevensville's extraterritorial zoning area, which has zoned commercial frontage from the edge of the Eastside Highway right-of-way to 500 feet east of the Boardwalk II property boundary. Table 5-4-1 of the Ravalli County Subdivision Regulations states that roads serving commercial uses must be major local roads.

3. The applicant is proposing to build an internal road, Red Willow Drive, to access all lots within the subdivision. Red Willow Drive is proposed to be constructed to meet major local road standards, with the exception of the proposed cul-de-sac. Table 5-4-2 states that a cul-de-sac is not allowed for a major local road and the applicant has requested a variance from that requirement. Staff is recommending approval of the variance with the conditions that the road meet major local standards except for the cul-de-sac requirement and that a 60-foot wide easement is provided for from the cul-de-sac to the eastern boundary of the subdivision. (Conditions 3 & 4)
4. In a letter dated December 13, 2005, MDT stated that a new approach permit would be needed for Red Willow Drive. To mitigate impacts on local services and restrict access on Eastside Highway, a no-ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approach for the internal road approved by MDT, shall be on the final plat and a notification of the limitations of access shall be filed with the final plat. To further mitigate impacts to local services, the applicant shall provide an approved approach permit from MDT. (*Exhibit A-6*) (Conditions 1, 7, and 8)
5. Section 3-3-4(c) (19) of the Ravalli County Subdivision Regulations requires that an approved road name petition be required with the final plat application for each new road constructed within the subdivision. Section 5-4-11 of the Ravalli County Subdivision Regulations states that road name signs shall be installed at all road intersections, which is also a requirement of final plat approval.
6. Submittal of final grading and drainage plans, an approved road name petition for Red Willow Drive, and a Road Certification, as certified by a professional engineer, are requirements of final plat approval. Installation of all infrastructure improvements is also required to be completed prior to final plat approval, which includes construction of the road and stormwater drainage facilities for Red Willow Drive.
7. If required, a General Discharge Permit for Stormwater Associated with Construction Activity from the Montana Department of Environmental Quality shall be submitted with the final plat application
8. A Road Maintenance Agreement was proposed for Red Willow Drive and is required to be submitted with the final plat application. A notification of the Road Maintenance Agreement shall be included in the Notifications document. (Conditions 1)
9. In order to ensure that the public has usage of the road within this subdivision, Red Willow Drive shall be dedicated as a public road and utility easement on the final plat. (Condition 5)
10. To mitigate impacts on local services and to ensure consistency with existing zoning, the conditions required by the Town of Stevensville shall be met prior to final plat approval. The applicant shall provide a letter of zoning compliance from the Town of Stevensville with the final plat application. Each deed shall contain a waiver of the right to protest future annexation to the Town of Stevensville and a waiver of the right to protest an SID to bring all infrastructure up to the current town standards at the time of annexation. (Conditions 15, 16, and 17)
11. Individual water and wastewater treatment systems are proposed to serve the lots. To mitigate potential impacts of this subdivision on any possible future public water, public sewer, and/or the road system, the RSID/SID waiver filed with the final plat shall address these systems. (Conditions 2 & 10)
12. Bitterroot Disposal provides services to this site.
13. The subdivision questionnaire indicates the parkland dedication for this subdivision is required to be 0.83 acres and cash-in-lieu of parkland dedication is proposed. The Department of Revenue indicated the unimproved and unsubdivided value of the property is \$4,680 per acre, which results in a cash donation of \$3,884.40 (*Exhibit A-1*). Cash-in-lieu of parkland dedication shall be paid as a requirement of final plat approval.
14. In a comment letter dated 4-13-05, Mr. John H. Ormiston, Chairman of the Ravalli County Park Board, stated that the Park Board concurs with cash in lieu of parkland dedication (*Exhibit A-2*).

15. In a comment letter dated December 9, 2005, the Stevensville School District asked for a contribution of \$5,000 per lot. To mitigate impacts of the subdivision on the Stevensville School District, the applicants shall contribute an amount (to be determined by the Planning Board) per lot to the Stevensville School District. (*Exhibit A-5*) (Condition 12)
16. The Stevensville Fire District has not provided comments. The applicant shall provide the water supply requirements under the Uniform Fire Code or a \$500 per lot contribution, which will mitigate impacts on local services and public health and safety. (Condition 13)
17. The Ravalli County Sheriff's Office provides law enforcement services to this area.
18. Public services are available to this subdivision.

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be minimized.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT

Findings of Fact:

1. Locating higher density development close to towns and existing services decreases the demand for development in outlying areas that will have increased impacts on the natural environment.
2. Individual wells and wastewater treatment systems are proposed to serve the lots. A Certificate of Subdivision Plat Approval from the Montana Department of Environmental Quality has been provided and is required to be filed with the final plat.
3. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient (Condition 2).
4. An approved noxious weed and vegetation control plan is required to be filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision (Condition 2).

Conclusions of Law:

1. A more densely developed subdivision would better protect the natural environment elsewhere by providing high density housing in close proximity to services.
2. Impacts from this subdivision on the natural environment will be minimized with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range.
2. The property was identified as an area with Sensitive Species, but because the property is relatively flat and has no nesting trees, the applicants have requested and received a waiver from a Sensitive Species Report.
3. To mitigate any impacts on wildlife and wildlife habitat, the covenants shall address living with wildlife, as recommended by FWP. (application) (Condition 2)

Conclusion of Law:

With the condition of approval, the proposed subdivision will have a minimal impact on wildlife.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. Unfenced irrigation supply ditches pose a significant and tangible threat to young children when located within a residential setting. The Union Ditch is considered an irrigation supply ditch, as opposed to a lateral ditch or smaller ditch, in which case the fencing requirement of Section 5-6-2 applies and fencing of the Ditch in accordance with the Regulations is a requirement of final plat approval. To mitigate impacts to public health and safety, the covenants shall include a provision requiring the maintenance of the fencing along the Union Ditch. (Condition 2)
2. To mitigate impacts on public health and safety, the subdivider shall apply for County-issued addresses for each lot and a provision requiring property owners to post County-issued addresses at their driveways shall be included in the covenants. (Conditions 2 and 14)
3. The condition that addresses the Rural Fire District's usual recommendation will mitigate impacts on public health and safety. (Condition 13)
4. With the recommended conditions and requirements of final plat approval, access to the subdivision will be adequate for public health and safety. (Conditions 1, 2, 3, 4, 6, 7, and 8) (*Effects on Local Services*)
5. Individual wells and septic systems are proposed for lots within this subdivision. (*Natural Environment*)
6. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
7. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants shall include a statement regarding radon exposure. (Condition 2)
8. The property may be located within the Burnt Fork Dam Inundation Area. The entire subdivision, and in fact, most of the Town of Stevensville, may be affected by the dam inundation area for Burnt Fork Lake. The mapping of dam inundation areas is based on extremely rough data and may be off by approximately 0.5 mile in either direction. To inform future property owners and to mitigate potential impacts of the subdivision on public health and safety, staff recommends a notification of the dam inundation area be included in the Notifications document filed with the final plat. (*Condition 1*)
9. The Ravalli County Sheriff's Office provides services to this subdivision.
10. Public services are available to this subdivision.

Conclusion of Law:

The mitigating conditions and requirements of final plat approval address potential impacts of this subdivision on public health and safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. The application indicates the property is located within the Town of Stevensville's extraterritorial zoning, which extends one mile south from the Town limits and includes the area between the Bitterroot River to the west and the supply ditch to the east. Staff recommends the applicants provide a letter of zoning compliance from the Town of Stevensville with the final plat submittal. (Condition 15)
2. The dimensional standards for the Low and Medium Density Residential (R-1 and R-2) districts include the following: setbacks are 25 feet (front and rear) and 7.5 feet (side), minimum lot area is 10,000 square feet (one acre until the property is annexed), maximum density of four (R-1) -16 (R-2) dwelling units per acre, minimum lot width of 80 feet and minimum lot depth of 100 feet. A portion of the property along Eastside Highway is zoned Highway Commercial (C-3). The dimensional standards for the Highway Commercial (C-3) district includes setbacks of 25 feet (front and rear) and 7.5 feet (side), minimum lot area of one acre until annexed, maximum density of 16 units per acre, minimum lot width of 80 feet and minimum lot depth of 100 feet. The C-3 zone also includes parking standards, found in section 16.20.280(10) of the Development Code Book for the Town of Stevensville. Other standards apply as well.
3. The following are permitted and conditional uses under the Town of Stevensville zoning. Permitted uses in R-1 zoning are single family dwellings, manufactured homes, and temporary structures for use only during construction and conditional uses are community residential facilities or boarding houses and bed and breakfasts. Permitted uses in R-2 zoning are single family dwellings, two to four dwelling units per structure, five or more dwelling units per

structure, senior citizen dwelling, manufactured homes, and temporary structures for use only during construction. Conditional uses in R-2 are community residential facilities or boarding houses, bed and breakfasts, and assisted living facilities. Permitted uses in C-3 zoning include single family dwellings, two to four dwelling units per acre, five or more dwelling units per acre, community residential facilities, senior citizen dwellings, manufactured homes, as well as commercial and other uses specified in the Development Code Book for the Town of Stevensville.

4. The applicants met with the Town of Stevensville's Board of Adjustment to address the issues involved with this subdivision. Minutes from the Public Hearing on January 13, 2003 state the following issues concerning zoning that were discussed with the applicants' representative, Terry Nelson (*application*):
 - a) All streets are to be constructed to county standards paved 24 feet – 60-foot right-of-way. Cul-de-sacs will be 80-foot radius right-of-way paved to 37-foot radius.
 - b) Variance to not require storm sewers.
 - c) Sidewalks not required.
 - d) A written statement from Union Ditch with approval of this crossing to be furnished. All deeds will contain a waiver of the owners' right to protest the annexation to the Town of Stevensville when proposed and a waiver of the owners' right to protest formation of a SID or RID to construct all necessary infrastructures and town codes.
5. To mitigate impacts on local services and to ensure consistency with existing zoning, the conditions required by the Town of Stevensville shall be met prior to final plat approval. Because deeds for each lot will not be created prior to final plat approval, a document shall be filed with the final plat that details the required deed restrictions that are required to be included in each deed for each lot within this subdivision. (Conditions 16 and 17)
6. There are no existing covenants on the property.

Conclusions of Law:

1. This property complies with the extraterritorial zoning area for the Town of Stevensville.
2. The property does not have covenants which apply to this property.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates existing utility easements are located along Eastside Highway. Utility easements are required to be shown on the final plat.
2. According to the application, the proposed subdivision will be served by Northwestern Energy and Qwest Telephone. Utility Certificates are required for final plat approval.

Conclusion of Law:

Utility services are available to the subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Findings of Fact:

1. Access to this subdivision is proposed via Eastside Highway, which is a State-maintained highway. (*Local Services*)
2. A variance has been requested to allow for a cul-de-sac on the internal subdivision road, Red Willow Drive, which is a major-local road. (*Variance*).

Conclusion of Law:

With the action on the variances, mitigating conditions, and requirements of final plat approval, the proposal meets physical and legal access requirements.

VARIANCE REQUEST

The applicant has requested a variance from Section 5-4-5 (a) of the Ravalli County Subdivision Regulations to allow for a cul-de-sac on Red Willow Drive, which is required to be constructed to meet major local road Standards. This variance request meets three out of the five variance review criteria.

Compliance with Variance Review Criteria

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Findings of Fact:

1. The property is within the Town of Stevensville's extraterritorial zoning area, which is zoned commercial frontage from the edge of the Eastside Highway right-of-way to 500 feet east of the Boardwalk II property boundary. Table 5-4-1 of the Ravalli County Subdivision Regulations states that roads serving commercial uses must be major local roads.
2. The applicant is requesting a variance from Section 5-4-5(a) and is proposing to build Red Willow Drive to meet major local road standards, except that the road will end in a cul-de-sac. Cul-de-sacs are not allowed on major local roads.
3. The Development Code Book for the Town of Stevensville has provisions regarding parking and setbacks for the Highway Commercial (C-3) zone.
4. To mitigate impacts on adjoining property owners, the applicants shall provide for a public road and utility easement from the cul-de-sac to the eastern boundary of the subdivision. (Condition 4)
5. The Road Department recommends approval of the variance. (*Exhibit A-3*)

Conclusion of Law:

The Town of Stevensville zoning and conditions will mitigate impacts of granting the variance on public health, safety, and general welfare, and adjoining properties.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Findings of Fact:

1. There are many properties within the extraterritorial zoning area for the Town of Stevensville, which allow for commercial uses.
2. There are many commercial properties that are required to have major local roads.

Conclusion of Law:

The conditions upon which the variance is requested are not unique to the subject property.

C. Physical conditions, such as topography or parcel shape, prevents the applicants from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Finding of Fact:

This is a relatively level, rectangular piece of property.

Conclusion of Law:

There are no physical conditions that prevent the applicant from meeting the Subdivision Regulations.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The proposed subdivision is located within the extraterritorial zoning area for the Town of Stevensville. The property is located in Areas 1 and 2, and is zoned Low and Medium Density Residential (R-1 and R-2) and Highway Commercial (C-3). Conditions 15, 16, and 17 will ensure the proposal is in compliance with zoning. The Town of Stevensville Board of Adjustment Public Hearing Minutes dated January 13, 2005 state that the Board approved the cul-de-sac.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

Countywide Goal 4: Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

Countywide Policy 4.2: Consider the cumulative impacts of development.

Countywide Policy 4.5: Developers will be responsible for providing the infrastructure necessary within the development such as community water, sewage treatment and roads. A system of "nexus and proportionality" will govern external infrastructure costs attributable to the developer.

- The developers will be meeting the Road Standards, except for the cul-de-sac. To mitigate impacts on future development and services, the applicants shall provide for a 60-foot wide public road and utility easement from the cul-de-sac to the eastern boundary of the subdivision. (Condition 4)

Conclusions of Law:

1. The proposal appears to be in compliance with zoning.
2. With the mitigating conditions, the Growth Policy supports the granting of this variance.

E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

1. The internal subdivision road will be built to county standards except for the cul-de-sac, and complies with the Town of Stevensville's extraterritorial zoning.
2. To mitigate impacts to public cost, the applicant shall provide for a 60-foot wide easement from the cul-de-sac to the eastern boundary of the property in case the eastern adjacent property is developed in the future. (Condition 4)

Conclusion of Law:

With the mitigating condition, the variance request will not affect public costs.

EXHIBIT A-1



RECEIVED

DEC 02 2005
1C-05-12-2172
Ravalli County Planning Dept

PLANNING DEPARTMENT
215 S 4TH ST
HAMILTON, MT 59840
406.375.6229; 406.375.6336

MEMORANDUM

OG-05-11-1172

To: Debbie Reesman, Department of Revenue
From: Benjamin H. Howell, Ravalli County Planning Department *BH*
Date: November 23, 2005
Subject: Tax Information Request

Information Requested By: December 6, 2005
Subdivision Name: Boardwalk II Subdivision
Parcel Number: 401500
Geocode Number: 1764-34-1-01-14-0000
Number of Lots: 14 Lots on 16.6 Acres
Cash-in-Lieu: \$4,680 per unsubdivided and unimproved acre

Comments:

Original Cash-in-Lieu request for this subdivision was requested and completed January 21, 2005 for 16 lots. The subdivision is now 14 lots on 16.60 acres.

Debra K. Rees
Signature

11-30-05
Date

** Total Cash-in-lieu = 0.83 ACRES X \$4,680 per Acre =
\$3,884.40 **

RECEIVED

APR 13 2005

Ravalli County Planning Office

IC-05-04-734

EXHIBIT A-2

Ravalli County Park Board
366 Blodgett Camp Rd
Hamilton MT 59840
April 13, 2005

Applebury Survey
Attn. Terry Nelson
914 Hwy 93
Victor MT 59875

Dear Mr. Nelson:

Here are my comments on behalf of the Ravalli County Park Board regarding Boardwalk II and Coyote Nights View Estates subdivision proposals. From the information you supplied I can see no parkland dedication parcels so therefore must assume the proponents are proposing cash in lieu of parkland dedication. I believe your records will show I concurred with cash in lieu of parkland dedication for these two proposals in a letter from me dated October 26, 2004.

Sincerely,



John H. Ormiston
Chairman, Ravalli County Park Board

✓Cc: Planning Department

EXHIBIT A-3

Ben Howell

From: David Ohnstad

Sent: Friday, December 09, 2005 1:23 PM

To: Ben Howell

Subject: boardwalk subdivision

Ben -

Regarding the request for agency comment on the Boardwalk II Major Subdivision; the Road & Bridge Department does not oppose the requested variance for Red Willow Drive to be constructed to minor local road standards.

David

EXHIBIT A-4

December 5, 2005

To whom it may concern:

We have reviewed the letter dated, November 6, 2003, issued by Darrell Binkerd, regarding modifications of structures crossing the Union Ditch. We are still approve of the plans he proposed to build a concrete bridge in lieu of the squashed culvert.

Directors

Bess Strange

John R. Bond

Carl Brand Pollman

Carl Brand Pollman

EXHIBIT A-5

Superintendent
Dennis Kimzey
Ext. 138



Stevensville Public Schools

300 Park Avenue
Stevensville, MT 59870
Phone: 406-777-5481
Fax: 406-777-1381



Clerk/Business
Manager
Bill Schiele
Ext. 139

RECEIVED

DEC 12 2005

December 9, 2005

Ravalli County Planning Dept
1C-05-12-2100

Mr. Benjamin Howell
Ravalli County Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840

Dear Benjamin,

Thank you for sending information regarding Broadwalk II Major Subdivision. Out Stevensville Public School District would like to go on record as indicating we have a policy whereby our school buses will not travel on non-county or non-state maintained roads. And further, the impact cost to our school district is \$5,000 per student. With fourteen lots, and one child per lot, the total cost would be \$70,000.

Thanks again Benjamin for the opportunity to respond. Best wishes for an enjoyable Christmas season!

Sincerely Yours,

Dennis Kimzey, Superintendent
Stevensville Public Schools

DK/pp

EXHIBIT A-6



Montana Department of Transportation

Missoula District Office
2100 W Broadway
PO Box 7039
Missoula, MT 59807-7039

Jim Lynch, Director
Brian Schweitzer, Governor

December 13, 2005

Benjamin H. Howell
Ravalli County Planning
215 South 4th Street; Suite F
Hamilton, MT 59840

RECEIVED

DEC 14 2005

Ravalli County Planning Dept.
16-05-12-2211

Subject: Boardwalk II - Stevensville

Benjamin, thanks for contacting the Montana Department of Transportation (MDT) regarding the proposed 14-lot subdivision. The proposed subdivision is located on the Eastside Highway (S-269) south of Stevensville.

The subdivision will be directly accessing the Eastside Highway by the new road designated Red Willow Drive. The new approach should be located so as not to be in conflict with existing approaches along the Eastside Highway, which could cause turning movement conflicts. A new approach permit will have to be approved by MDT. Gary Hornseth is the contact person in this office for the new approach permit.

Should you have any further questions, please give me a call at (406) 523-5800.

Sincerely,

James M. Freyholtz
(Acting) Missoula District Traffic Engineer

copies: File

Gary Hornseth, Missoula Area Maintenance Superintendent